

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In Re: Nickless v. Letourneau et al

Chapter 7

Adversary Proceeding 03-04058

Judge Joel B. Rosenthal

FILED
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2003 DEC -2 A 9:44

CLERK'S CERTIFICATION FOR TRANSMITTAL
OF RECORD ON APPEAL

U.S. DISTRICT COURT
DISTRICT OF MASS.

I, JAMES M. LYNCH, Clerk of the United States Bankruptcy Court for the District of Massachusetts, do hereby certify that the annexed documents are copies of the original papers as described in the accompanying Designation of Record and constitute the Record on Appeal in the case entitled and numbered **Nickless v. Letourneau, 03-4058. Transcript Forthcoming.**

IN TESTIMONY WHEREOF, I HEREUNTO SET
MY HAND AND AFFIX THE SEAL OF THIS
COURT, AT WORCESTER, IN THE DISTRICT OF
MASSACHUSETTS, THIS 2nd DAY OF DECEMBER

Date: 12/2/03

James M. Lynch
Clerk, U.S. Bankruptcy Court



By the Court,

Joanne M. Ryan

Deputy Clerk
(508) 770-8921

Receipt of the documents in the above-entitled case as described in the Designation of Record is hereby acknowledged this 2nd day of December, 2003.

This case has been assigned No.

03-40272

Joanne M. Ryan
DEPUTY CLERK

727OBJ, APPEAL

**United States Bankruptcy Court
District of Massachusetts (Worcester)
Adversary Proceeding #: 03-04058**

Assigned to: Bankruptcy Judge Joel B. Rosenthal

Related BK Case: 02-46540

Related BK Title: Andrew Joseph Letourneau and Pauline
Mary Letourneau

Demand:

Nature of Suit: 424

Date Filed: 03/17/03

DEBTOR (AP Case Only)

Andrew J. Letourneau

Pauline M. Letourneau

Plaintiff

**David M. Nickless, *David M. Nickless,*
*Trustee***

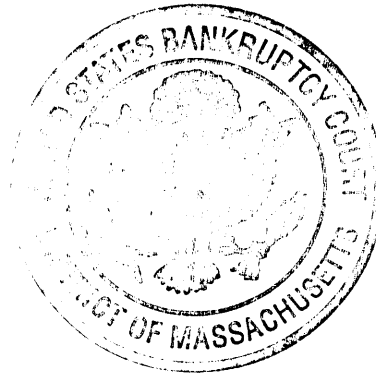
represented by **David M. Nickless**

Nickless & Philips
495 Main Street
Fitchburg, MA 01420
978-342-4590

Email: dnickless.nandp@verizon.net

Nora K. McLaughlin

Nickless and Philips, P.C.
495 Main Street
Fitchburg, MA 01420
(978) 342-4590
Email: nmclaughlin.nandp@verizon.net
LEAD ATTORNEY



Certified to be a true and
correct copy of the original
James M. Lynch, Clerk
U.S. Bankruptcy Court
District of Massachusetts

By: [Signature] Deputy Clerk

Date: 12/2/03

V.

Defendant

Andrew J. Letourneau

represented by

Joseph P. Bernardo
655 Boston Road
Unite 3B
Billerica, MA 01821
(978) 667-1565

Fax : (978) 667-3686

Pauline M. Letourneaurepresented by **Joseph P. Bernardo**
(See above for address)

Filing Date	#	Docket Text
03/17/2003	1	Complaint (03-4058) David M. Nickless vs. Andrew J. Letourneau . 727 Objection . (hrc) (Entered: 03/17/2003)
03/17/2003	2	Trustee's Motion to Defer Filing Fee (03-4058) Regarding [1-1] Complaint 727 Objection. (jr) (Entered: 03/19/2003)
03/19/2003		Summons issued on Pauline M. Letourneau and Andrew J. Letourneau. Answer due 4:30 pm on 4/18/03 for Pauline M. Letourneau and Andrew J. Letourneau. (jr) (Entered: 03/19/2003)
03/19/2003	3	ENDORSEMENT ORDER: Granting [2-1] Motion To Defer Filing Fee . ALLOWED. (jk) (Entered: 03/20/2003)
03/27/2003	4	Summons Served 3/20/03 on Pauline M. Letourneau and Andrew J. Letourneau. (ss) (Entered: 04/04/2003)
04/18/2003	5	Answer to Complaint Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau. c/s (ss) (Entered: 04/21/2003)
04/21/2003	6	Pre-Trial Order. Pre-Trial Order due by 8/19/2003. Discovery due by 7/30/2003. (ss ,) (Entered: 04/21/2003)
04/22/2003	7	Pre-Trial Order. Rule 26(f) Certification Due by 6/4/03. (ss) (Entered: 04/22/2003)
06/03/2003	8	Certification of Disclosure Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau and Plaintiff David M. Nickless. (jr ,) (Entered: 06/04/2003)
06/06/2003	9	Hearing Scheduled Re: 1 Complaint. Trial date set for 8/20/2003 at 9:30 AM at Worcester Courtroom 3 - JBR. (jr ,) (Entered: 06/06/2003)
06/17/2003	10	Certificate of Service (Re: 1 Complaint). Filed by Plaintiff David M. Nickless (Nickless, David) (Entered: 06/17/2003)
07/14/2003	11	Order Re: 9 Hearing Scheduled. THE TRIAL PRESENTLY SCHEDULED FOR AUGUST 20, 2003 IS RESCHEDULED TO SEPTEMBER 23, 2003 AT 1:30 PM PER ORDER OF THE

		COURT. ALL OTHER DEADLINES REMAIN AS PREVIOUSLY SCHEDULED. (jr ,) (Entered: 07/14/2003)
08/19/2003	12	Motion to Disqualify Judge Joel B. Rosenthal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau with Memorandum in Support and Affidavit of Joseph P. Bernardo. c/s (jr ,) (Entered: 08/19/2003)
08/19/2003	13	Joint Pre-Trial Statement (Re: [6] Pre-Trial Order). Filed by Plaintiff David M. Nickless (McLaughlin, Nora) (Entered: 08/19/2003)
08/19/2003	14	Certificate of Service (Re: 13 Pre-Trial Statement). Filed by Plaintiff David M. Nickless (McLaughlin, Nora) (Entered: 08/19/2003)
08/22/2003	15	Statement <i>By Trustee in Response to Defendant's Motion to Disqualify Judge B. Rosenthal</i> (Re: 12 Motion to Recuse Judge). Filed by Plaintiff David M. Nickless (McLaughlin, Nora) (Entered: 08/22/2003)
08/26/2003	16	Endorsed Order Denying 12 Motion to Disqualify Judge Joel B. Rosenthal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau with Memorandum in Support and Affidavit of Joseph P. Bernardo. DENIED. (jr ,) (Entered: 08/26/2003)
09/04/2003	17	Notice of Appeal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 16 Endorsed Order Denying 12 Motion to Disqualify Judge Joel B. Rosenthal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau with Memorandum in Support and Affidavit of Joseph P. Bernardo. (jr ,) (Entered: 09/04/2003)
09/04/2003	18	Election of Appeal to District Court Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 17 Notice of Appeal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 16 Endorsed Order Denying 12 Motion to Disqualify Judge Joel B. Rosenthal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau with Memorandum in Support and Affidavit of Joseph P. Bernardo. c/s (jr ,) (Entered: 09/04/2003)
09/04/2003	19	Clerk's Notice of Fees Due Re: 17 Notice of Appeal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 16 Endorsed Order Denying 12 Motion to Disqualify Judge Joel B. Rosenthal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau with Memorandum in Support and Affidavit of Joseph P. Bernardo. Fee due by 9/15/2003. (jr ,) (Entered: 09/04/2003)
09/04/2003	20	Motion for Leave to Appeal Interlocutory Order Re: 16 Endorsed Order Denying 12 Motion to Disqualify Judge Joel B. Rosenthal

		Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau with Memorandum in Support and Affidavit of Joseph P. Bernardo. (jr ,) (Entered: 09/04/2003)
09/09/2003	●	Receipt Number 514001, Fee Amount \$5.00 RE: 17 Notice of Appeal and 19 Clerk's Notice of Fees Due. (jr ,) (Entered: 09/12/2003)
09/12/2003	●21	Objection by Plaintiff David M. Nickless Re: 20 Motion for Leave to Appeal, filed by DEBTOR (AP Case Only) Andrew J. Letourneau, Defendant Andrew J. Letourneau, DEBTOR (AP Case Only) Pauline M. Letourneau, Defendant Pauline M. Letourneau (McLaughlin, Nora) (Entered: 09/12/2003)
09/16/2003	●22	Transmittal of Record on Appeal to U.S. District Court Re: 17 Notice of Appeal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 16 Endorsed Order Denying 12 Motion to Disqualify Judge Joel B. Rosenthal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau with Memorandum in Support and Affidavit of Joseph P. Bernardo. (jr ,) (Entered: 09/16/2003)
09/24/2003	●	Trial Held. (jr ,) (Entered: 09/24/2003)
09/24/2003	●23	Order Re: 1 Complaint. TAKEN UNDER ADVISEMENT. (jr ,) (Entered: 09/24/2003)
10/06/2003	●24	Joint Exhibit List Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau and Plaintiff David M. Nickless. FILED IN OPEN COURT 9/23/03. (jr ,) (Entered: 10/06/2003)
10/07/2003	●25	Findings of Fact and Conclusions of Law Re: 1 Complaint (03-4058) David M. Nickless vs. Andrew J. Letourneau 727 Objection. FOR THE FOREGOING REASONS, THE COURT FINDS THE DEFENDANTS' DISCHARGE SHOULD BE DENIED BECAUSE THEY 1) TRANSFERRED PROPERTY OF THE DEBTORS WITHIN ONE YEAR BEFORE THE DATE OF THE FILING OF THEIR CHAPTER 7 PETITION WITH INTENT TO HINDER, DELAY OR DEFRAUD A CREDITOR UNDER 11 U.S.C. 727(a)(2)(A); AND 2) KNOWINGLY AND FRAUDULENTLY MADE FALSE OATHS UNDER 11 U.S.C. 727(a)(4)(A). A SEPERATE ORDER WILL ISSUE. (jr ,) (Entered: 10/08/2003)
10/07/2003	●26	Order Re: 1 Complaint (03-4058) David M. Nickless vs. Andrew J. Letourneau 727 Objection. FOR THE REASONS SET FORTH IN THE MEMORANDUM OF DECISION ISSUED CONTEMPORANEOUSLY HEREWITH, JUDGMENT ON COUNT I AND COUNT II SHALL ENTER FOR PLAINTIFF. SO ORDERED. (jr ,) (Entered: 10/08/2003)

10/17/2003	27	Notice of Appeal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 26 Order of 10/7/03 Re: 1 Complaint (03-4058) David M. Nickless vs. Andrew J. Letourneau 727 Objection. FOR THE REASONS SET FORTH IN THE MEMORANDUM OF DECISION ISSUED CONTEMPORANEOUSLY HEREWITH, JUDGMENT ON COUNT I AND COUNT II SHALL ENTER FOR PLAINTIFF. Appellant Designation due by 10/27/2003. Complied Records Due by 11/12/2003. Transmission of Designation Due by 11/17/2003. Receipt Number 515079, Fee Amount \$105. c/s (jr ,) (Entered: 10/17/2003)
10/17/2003	28	Election of Appeal to District Court Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 27 Notice of Appeal. c/s (jr ,) (Entered: 10/17/2003)
10/17/2003		Receipt Number 515079, Fee Amount \$105.00 Re: 27 Notice of Appeal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 26 Order of 10/7/03 Re: 1 Complaint (03-4058) David M. Nickless vs. Andrew J. Letourneau 727 Objection. (jr ,) (Entered: 10/17/2003)
10/31/2003	29	Election of Appeal to District Court Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 27 Notice of Appeal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 26 Order of 10/7/03 Re: 1 Complaint (03-4058) David M. Nickless vs. Andrew J. Letourneau 727 Objection. (jr, usbc) PLEASE DISREGARD, DUPLICATE ENTRY OF #28. Modified on 10/31/2003 (jr, usbc). (Entered: 10/31/2003)
10/31/2003	30	Notice of Appeal to District Court Re: 27 Notice of Appeal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 26 Order of 10/7/03 Re: 1 Complaint (03-4058) David M. Nickless vs. Andrew J. Letourneau 727 Objection. (jr, usbc) (Entered: 10/31/2003)
10/31/2003	31	Order Extending Deadlines Re: 27 Notice of Appeal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 26 Order of 10/7/03 Re: 1 Complaint (03-4058) David M. Nickless vs. Andrew J. Letourneau 727 Objection. THE TIME WITHIN WHICH THE APPELLANT MUST FILE ITS DESIGNATION OF RECORD AND STATEMENT OF ISSUES ON APPEAL IS EXTENDED TO NOVEMBER 10, 2003. (jr, usbc) (Entered: 10/31/2003)
11/06/2003	32	Appellant Designation of Contents For Inclusion in Record On Appeal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 27 Notice of Appeal. Appellee designation due by 11/17/2003. (jr, usbc) (Entered: 11/07/2003)
11/06/2003	33	Statement of Issues Filed by Defendants Andrew J. Letourneau and

		Pauline M. Letourneau Re: 27 Notice of Appeal. c/s (jr, usbc) (Entered: 11/07/2003)
11/13/2003	34	Notice of Docketing Record on Appeal. District Court Action Number: 03-40209 17 Notice of Appeal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 16 Endorsed Order Denying 12 Motion to Disqualify Judge Joel B. Rosenthal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau with Memorandum in Support and Affidavit of Joseph P. Bernardo. (jr, usbc) (Entered: 11/13/2003)
11/14/2003	35	Appellee Designation of Contents for Inclusion in Record of Appeal Filed by Plaintiff David M. Nickless (RE: 27 Notice of Appeal,,). (McLaughlin, Nora) (Entered: 11/14/2003)
12/02/2003	36	Transmittal of Record on Appeal to U.S. District Court Re: 27 Notice of Appeal Filed by Defendants Andrew J. Letourneau and Pauline M. Letourneau Re: 26 Order of 10/7/03 Re: 1 Complaint (03-4058) David M. Nickless vs. Andrew J. Letourneau 727 Objection. (jr, usbc) (Entered: 12/02/2003)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

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U.S. BANKRUPTCY COURT
WORCESTER, MA.

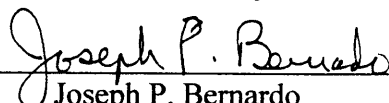
In re:)	
Andrew J. Letourneau)	
)	Chapter 7
Pauline M. Letourneau)	Case No. 02-46540-JBR
Debtors.)	
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David M. Nickless, Trustee,)	
Plaintiff)	
v.)	Adversary Proceeding
Andrew J. Letourneau and)	No. 03-4058
Pauline M. Letourneau)	
Defendants)	
<hr/>		

STATEMENT OF ELECTION UNDER 28 U.S.C. § 158 (c) (1) (A)

Pursuant to 28 U.S.C. § 158 (c) (1) (a), appellants Andrew J. Letourneau and Pauline M. Letourneau hereby elect to have their appeal from the United States Bankruptcy Court's final order entered on October 8, 2003, heard in the United States District Court for the District of Massachusetts. A copy of the order appealed from is attached hereto as Exhibit A.

ANDREW J. LETOURNEAU
PAULINE M. LETOURNEAU
By their Attorney

Dated: October 17, 2003



Joseph P. Bernardo
BBO # 040800
655 Boston Road-Unit 3B
Billerica, Massachusetts 01821
(978) 667-1565

10/17/03
28

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

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In re
Andrew J. Letourneau
Pauline M. Letourneau
Debtors.

Chapter 7
No. 02-46540-JBR

U.S. BANKRUPTCY COURT
WORCESTER, MA.

David M. Nickless, Trustee,
Plaintiff

Adversary Proceeding
No. 03-4058

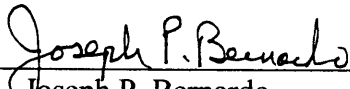
v.
Andrew J. Letourneau
Pauline M. Letourneau
Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2003, I served (1) Notice Of Appeal; and (2) Statement Of Election Under 28 U.S.C. § 158 (c) (1) (a) by mailing true copies of the same, first-class mail, postage prepaid, to the following interested parties:

David M. Nickless, Esquire
Nickless and Phillips
495 Main Street
Fitchburg, MA 01420
(Chapter 7 Trustee)

Nora K. McLaughlin, Esquire
Nickless and Phillips
495 Main Street
Fitchburg, MA 01420
(Counsel to Chapter 7 Trustee)


Joseph P. Bernardo
BBO # 040800
655 Boston Road-Unit 3B
Billerica, MA 01821
Tel. (978) 667-1565

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION**

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CLERK'S OFFICE

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BANKRUPTCY COURT
WORCESTER, MA.

In re:

Andrew J. Letourneau

**Pauline M. Letourneau
Debtors.**

Chapter 7

Case No. 02-46540-JBR

**David M. Nickless, Trustee,
Plaintiff**

v.

**Andrew J. Letourneau and
Pauline M. Letourneau
Defendants**

Adversary Proceeding

No. 03-4058

NOTICE OF APPEAL

Andrew J. Letourneau and Pauline M. Letourneau, the defendants, appeal under 28 U.S.C. § 158 (a) (1) from the final order of the bankruptcy judge (Rosenthal, J.) entered in this adversary proceeding on the 8th day of October, 2003.

The names of all parties to the final order appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

Plaintiff: David M. Nickless, Trustee

Defendants: Andrew J. Letourneau and Pauline M. Letourneau

Plaintiff's Attorney: Nora K. McLaughlin, Esquire
Nickless and Phillips
495 Main Street
Fitchburg, MA 01420
(978) 342-4590

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Defendants' Attorney: Joseph P. Bernardo, Esquire
655 Boston Road - Unit 3B
Billerica, MA 01821
(978) 667-1565

Dated: October 17, 2003

Signed: Joseph P. Bernardo
Attorney for Appellant

Attorney Name: Joseph P. Bernardo
BBO # 040800

Address: 655 Boston Road - Unit 3B
Billerica, Massachusetts 01821

Telephone No. (978) 667-1565

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

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CLERK

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In re
Andrew J. Letourneau
Pauline M. Letourneau
Debtors.

Chapter 7
No. 02-46540-JBR

David M. Nickless, Trustee,
Plaintiff

Adversary Proceeding
No. 03-4058

v.
Andrew J. Letourneau
Pauline M. Letourneau
Defendants.

APPELLANTS' DESIGNATION OF RECORD ON APPEAL

Pursuant to Fed. R. Bankr. P. 8006, the appellants, Andrew J. Letourneau and Pauline M. Letourneau ("Letourneau") hereby designate the following items to be included in the record on appeal:

1. Debtors' Voluntary Petition (a copy of which is attached hereto as Exhibit A);
2. Debtors' Schedules (a copy of which is attached hereto as Exhibit B);
3. Debtors' Statement of Financial Affairs (a copy of which is attached hereto as Exhibit C);
4. All Trial Exhibits (a copy of which is attached hereto as Exhibit D);
5. Defendants' Motion To Disqualify Judge Joel B. Rosenthal (a copy of which is attached hereto as Exhibit E); and
6. Trustee's Statement In Response To Defendants' Motion To Disqualify Judge Joel B. Rosenthal (a copy of which is attached hereto as Exhibit F)

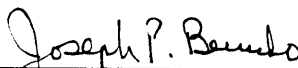
11/7/03

32

ANDREW J. LETOURNEAU
PAULINE M. LETOURNEAU

By their attorney

Dated: November 5, 2003

A handwritten signature in cursive script, reading "Joseph P. Bernardo", is written over a horizontal line.

Joseph P. Bernardo
655 Boston Road-Unit 3B
Billerica, Massachusetts 01821
Tel. (978) 667-1565
Fax: (978) 667-3686